

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re SONY BMG CD Technologies Litigation	:	No. 05 CV 9575 (NRB)
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**DECLARATION OF JEFFREY S. JACOBSON, ESQ., IN SUPPORT OF  
FINAL APPROVAL OF THE SETTLEMENT**

Jeffrey S. Jacobson, Esq., hereby declares as follows:

1. I am an attorney admitted to practice before this Court and a member of the firm of Debevoise & Plimpton LLP (“Debevoise”), counsel to defendant SONY BMG Music Entertainment (“SONY BMG”) in this matter. I submit this declaration, on behalf of SONY BMG, in support of Class Counsel’s Motion for Final Approval of the Settlement. I have personal knowledge of the facts set forth below.

2. In a departure from usual class action practice, SONY BMG agreed to begin providing the promised benefits to Settlement Class Members even before this proposed settlement has received final approval from the Court. It has been fulfilling claims since February 2006.

3. The settlement website, [www.sonybmgcdtechsettlement.com](http://www.sonybmgcdtechsettlement.com), received more than 200,000 “hits” between February 10, 2006, when it was activated, and April 30, 2006, according to data provided to me by the settlement administrator.

4. Thousands of people already have submitted claims for settlement benefits. The majority of claimants are purchasers of XCP CDs who are eligible to claim replacement

CDs plus cash and/or free album downloads. The final deadline for class members to submit claims is December 31, 2006.

5. More than 36,000 people have, through the settlement website, downloaded the updates or “patches” for the “MediaMax” and “XCP” digital rights management software. Pursuant to the settlement, the patches will be available at least through 2007.

6. One of the benefits that SONY BMG is providing in the settlement is the ability for Settlement Class Members to receive unprotected digital copies of the music on XCP- or MediaMax-protected CDs that they purchased. The purpose of this benefit is to allow Settlement Class Members to transfer this music to their computers without having to insert the CDs or install the XCP or MediaMax software.

7. Another benefit being offered to purchasers of CDs protected by XCP or MediaMax version 5.0 is the opportunity to download one album (or, in the case of XCP CDs, up to three albums) from a list of 177 specified albums from the SONY BMG catalog. These CDs are recent works of more than 130 different artists, mostly from the same genres reflected in the XCP- and MediaMax-protected CDs.

8. According to industry data available through SOUNDSCAN, SONY BMG has sold 82 million copies of these 177 CDs in the United States alone. Some of the albums are top sellers: 24 of them have sold more than a million copies each, and 79 of them have sold more than 100,000 copies each.

9. The free download benefit also is fully transferable. Thus, if a Settlement Class Member does not find any of the 177 albums to his or her liking, the download opportunity can be given away or even sold.

10. I have reviewed my declaration and declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: New York, New York  
May 10, 2006

*s/ Jeffrey S. Jacobson*  
Jeffrey S. Jacobson